IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CRIMINAL APPLICATION NO.432 OF 2005
IN
CRIMINAL APPEAL NO.79 OF 2005

Jahid Hussain Mohd. Hussain Ansari
& ors. ..Applicants.

v/s.

The State of Maharashtra .. Respondent.

Mr.C.K.Talekar for applicants.

Smt.V.R.Bhonsale, Additional Public Prosecutor for State.

CORAM : R.M. LODHA AND
R.S. MOHITE, JJ.

DATED : 2nd February, 2005

P.C.

Heard.

2. The appellants have made this application for their release on bail during the pendency of the criminal appeal. They have been convicted of the offence punishable under section 302 read with section 34 of the IPC by the Additional Sessions Judge in Sessions Case No.1233 of 1992.

3. To bring home the guilt of the accused persons, the prosecution examined PW1, PW2 and PW4 as eye

witnesses. PW1 and PW2 did not support the case of the prosecution and were declared hostile. Though PW4 in his examination-in-chief stated that he noticed the scuffle going on near the bus stop on 11th July, 1992 at about 10 - 10.15 p.m.; one person was lying in an injured condition; two persons were sitting on his chest and stomach and giving fist blows and two persons were beating that person by umbrella, stick and legs, in the cross-examination, he admitted that he did not know as to how, when and where the injured person sustained injuries. That creates a serious doubt about PW4 having witnessed the incident, prima facie.

4. We are informed that the accused-appellants were on bail during the trial.

5. Having considered all these aspects, we are of the view that the appellants-applicants may be enlarged on bail during the pendency of appeal.

6. We, accordingly, dispose of this application by following order:-

The appellants-applicants shall be released on bail on their furnishing personal bond

of Rs.10,000/- each and two sureties of the like amount to the satisfaction of the trial court for their appearance before this court as and when required.

(R.M. LODHA, J.)

(R.S. MOHITE, J.)